



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

MEMORANDUM

DATE: March 19, 2009

TO: District and Municipal Court Judges, Court Administrators, and Clerks of the Court

FROM: Jill Booth

RE: Contesting the Abandonment Process or Towing and Storage Fees of Vehicles under MCL 257.252a et seq.

[2008 PA 539](#) took effect January 13, 2009, and revises the process for contesting the abandonment process or towing and storage fees of vehicles under MCL 257.252a *et seq.* For a vehicle towed under MCL 257.252a or 257.252d, the court must now collect a bond in the amount of \$40 plus accrued towing and storage fees when a petition is filed(unless the accrued towing and storage fees have already been paid by the vehicle owner), even if the owner is not seeking release of the vehicle. The court also now has expanded authority to determine if the towing agency, custodian, or private property owner, in addition to the police agency, acted properly in reporting or processing an abandoned or removed vehicle. The new law also clarifies that the court must notify a private property owner of the hearing if the vehicle was removed from private property. This memo outlines the elements of the process. Please adjust your procedures accordingly.

Department of State Form TR-52P

Within seven days of receiving notice that an abandoned or removed vehicle has been taken into custody, the Department of State (DOS) is required to send notice to the last-titled owner and secured party (DOS Form TR-52P). A TR-52P notice will be generated when a vehicle is towed pursuant to MCL 257.252a or 252b (abandonment) or 257.252d (removal) and will include a form petition for requesting a hearing on the disposition of the abandoned vehicle.

Filing an Action

A vehicle owner can contest the abandonment process or the imposition of towing and storage fees by filing the TR-52P at the court listed in the notice or, if no court is listed, at the local district or municipal court. The petition must be filed within 20 days after the date of the notice.

If the vehicle owner does not have the TR-52P, he or she may file SCAO form [DC 90](#), Petition Regarding Impoundment of Motor Vehicle or Seizure of Motorcycle. If the vehicle owner files DC 90, the court must inquire whether the vehicle was towed pursuant to MCL 257.252a, 252b, or 252d because the form is also used in other situations. The vehicle owner must pay a \$65 filing fee when the case is filed. The court should open a civil case with case-type code GZ.

For a vehicle towed pursuant to MCL 257.252a or 257.252d, the court is required to collect a bond in the amount of \$40 plus accrued towing and storage fees when a petition is filed, unless the accrued towing and storage fees have already been paid by the vehicle owner. If that has happened, then the court is required only to collect a \$40 statutory fee from the owner in addition to the filing fee. For a vehicle towed pursuant to MCL 257.252b, if the owner wishes to obtain release of the vehicle, the court is required to collect a bond in the amount of \$40, plus accrued towing and storage fees, unless the accrued towing and storage fees have already been paid by the vehicle owner. If that has happened, then the court is only required to collect a \$40 statutory fee from the owner in addition to the filing fee.

If the vehicle was towed under another provision of the law, or upon request of the owner or operator, the bond and \$40 statutory fee are not applicable and should not be collected.

Scheduling a Hearing

The court must schedule a hearing within 30 days for the purpose of determining whether the police agency, towing agency or custodian, or private property owner acted properly. The court must notify the vehicle owner, towing agency or custodian, and police agency, or, if the vehicle was removed from private property, the private property owner, of the time and place of the hearing. [MCL 257.252f(1)]

Issuing a Decision

At the hearing, the police agency, towing agency or custodian, or, if the vehicle was removed from private property, the private property owner has the burden of showing by a preponderance of the evidence that the agency or individual acted properly in reporting or processing the abandoned or removed vehicle. [MCL 257.252f(2)]

After the hearing, the court shall make a decision that includes one or more of the following: [MCL 257.252f(3)]

1. If the court finds that the police agency complied with the procedures for processing an abandoned or removed vehicle, the court shall allow a period of 20 days after its decision for the owner to redeem the vehicle. The court shall also forward the towing and storage fees and \$15 of the \$40 to the towing agency. The remaining \$25 shall be transmitted within 30 days directly to DOS at the following address:

Cashier Section
7064 Crowner Drive
Lansing, MI 48918

[MCL 257.252f(3)(a)]

2. If the court finds that the police agency did not comply with the procedures for processing an abandoned or removed vehicle, the court shall order the vehicle to be immediately released to the owner and that the police agency is responsible for the accrued towing and storage charges. The court shall also order the return of any fee or bond posted by the owner. [MCL 257.252f(3)(b)]
3. If the court finds that the towing fees and daily storage fees were reasonable, the statute offers no guidance as to how the bond or fee should be distributed. Other findings the court makes should determine how any bond or fee will be distributed. [MCL 257.252f(3)(c)]
4. If the court finds that the towing fees and daily storage fees were unreasonable, the court shall issue an order directing the towing agency or custodian of the vehicle to provide the owner of the vehicle with an appropriate reduction or refund. However, there is no provision in the statute for returning the \$40 statutory fee to the owner. Other findings the court makes should determine how any bond or fee will be distributed. [MCL 257.252f(3)(d)]
5. If the court finds that the private property owner acted properly, including compliance with notice requirements, the statute offers no guidance as to how the bond or fee should be distributed. Other findings the court makes should determine how any bond or fee will be distributed. [MCL 257.252f(3)(e)]
6. If the court finds that a private property owner acted improperly, the court shall issue an order requiring the private property owner to reimburse the owner for the accrued towing and storage charges. Again, there is no provision for returning the \$40 statutory fee to the vehicle owner if the private property owner is found to have acted improperly. Other findings the court makes should determine how any bond or fee will be distributed. [MCL 257.252f(3)(f)]
7. If the court finds that the towing agency did not comply with the procedures established for the proper removal and reporting of an abandoned or removed vehicle, the court shall issue an order directing that the vehicle immediately be released to the owner and that the towing agency is responsible for the accrued towing and storage charges. The court shall also order the return of any fee or bond posted by the owner. [MCL 257.252f(3)(g)]
8. If the court finds that the towing agency did comply with the procedures established for the proper removal and reporting of an abandoned or removed vehicle, the statute offers

March 19, 2009

Page 4

no guidance as to how the money should be distributed. Other findings the court makes should determine how any bond or fee will be distributed. [MCL 257.252f(3)(h)]

Because the statute is silent as to how the statutory bond or fee should be distributed if the court makes more than one of these eight findings, the court should look at its decision as a whole to determine the appropriate distribution.

Please note that the reference in TR-52P to bond forfeiture in the "Notice to the Court" section should be interpreted to include both applicable findings by the court and an owner's failure to appear at the hearing that results in dismissal of the case. In each of these situations, \$15 of the \$40 statutory fee should be forwarded to the towing agency and the remaining \$25 transmitted to DOS as outlined in #1 above.

The owner always has 20 days following the hearing to redeem the vehicle from the custodian regardless whether the court order specifically states so. [MCL 257.252a(16) & MCL 257.252b(11)]

If you have questions, please contact me at 517-373-3756. The Department of State general information number is 517-322-1460.